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9
10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 TRAFFICSCHOOL.COM, INC., a
California Corporation; DRIVERS ED
13 DIRECT, LLC, a California limited
liability company,

14 Plaintiffs,

15 v.

16 EDRIVER, INC., ONLINE GURU,
INC., FIND MY SPECIALIST, INC.,
17 and SERIOUSNET, INC., California
corporations, RAVI K. LAHOTI, an
18 individual; RAJ LAHOTI, an individual;
DOES 1 through 10,

19 Defendants.
20

Case No: CV 06-7561 PA (CWx)

**DEFENDANTS' REPLY TO
PLAINTIFFS' EVIDENTIARY
OBJECTIONS AND MOTION TO
STRIKE DECLARATION OF RAJ
LAHOTI IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION FOR
ATTORNEYS FEES AND COSTS**

Date: December 5, 2011

Time: 1:30 p.m.

Ctrm: 15

Judge: Honorable Percy Anderson

Complaint Filed: November 28, 2006

21 Defendants Edriver, Inc., Online Guru, Inc., Find My Specialist, Inc.,
22 Seriousnet, Inc., Ravi K. Lahoti, and Raj Lahoti ("Defendants") hereby reply to
23 Plaintiffs' Evidentiary Objections And Motion To Strike Declaration Of Raj Lahoti
24 In Support Of Defendants' Opposition filed by plaintiffs Trafficschool.com, Inc.
25 and Drivers Ed Direct, LLC ("Plaintiffs") in support of Plaintiffs' Motion for
26 Attorney Fees and Costs as set forth below.

27 Plaintiffs' evidentiary objections are without merit as follows:
28

DEFENDANTS' REPLY TO PLAINTIFFS' EVIDENTIARY OBJECTIONS AND MOTION TO STRIKE
DECLARATION OF RAJ LAHOTI ISO DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR
ATTORNEYS FEES AND COSTS
CASE NO. CV 06-7561 PA (CWx)

1 1. The evidence presented by Mr. Lahoti's Declaration was soundly
2 presented for each statement and representation in Mr. Lahoti's Declaration,
3 namely, to correct and clarify in the record the misleading and inaccurate
4 representations of dmv.org's ("Website") content introduced by Attorney Mina
5 Hamilton on behalf of Plaintiffs.

6 2. The evidence presented by Mr. Lahoti highlights for the Court that
7 Plaintiffs' counsel has not accurately described the very documents they attach as
8 exhibits to support Table 5, which they finally admit is "largely irrelevant to the
9 motion on fees." (Plaintiffs' Evidentiary Objection at p. 2 lines 4-5, Doc. No. 324-
10 8.) This begs the questions as to why Plaintiffs went to such extremes to include
11 this lengthy and now admittedly irrelevant information in connection with their fee
12 motion. This question was asked by Defendants in their opening brief given that
13 there is not a single case suggesting that post-judgment conduct has any bearing on
14 the pending motion for attorneys' fees and costs.

15 3. Raj Lahoti is the co-founder and Chairman of Defendant Online Guru,
16 Inc.,¹ and is an individually named defendant in this matter. As such, he
17 undoubtedly possesses adequate foundation and knowledge of the company's
18 practices to present accurate and truthful evidence relating to the Website. Mr.
19 Lahoti is an appropriate person to address the various inaccuracies in alleged
20 "evidence" introduced by Ms. Hamilton in support of her client's Motion.

21 4. Plaintiffs also state in conclusory fashion that the information was
22 provided "only to show that Defendants' deceitful acts are a moving target
23 requiring further fees to be incurred" (Plaintiffs' Evidentiary Objection at p. 2 lines
24 9-10, Doc. No. 324-8); yet, Plaintiffs, having lost a formal motion for contempt,
25 want to prevent Defendants from defending themselves from Plaintiffs' ongoing,
26

27 ¹ Online Guru, Inc. is the company that manages the Website.

1 unjustified and relentless harassment. Plaintiffs admit, in attempting to get this
2 Court to deny Defendants response to Plaintiffs' allegations of misconduct, that the
3 "additional arguments and evidenced related to the injunction issues in remand
4 were uninvited by the Court and are a belated and improper attempt to argue issues
5 relating to the Joint Status Report and the permanent injunction months after they
6 were due and should be stricken by the Court." (Plaintiffs' Evidentiary Objection
7 at p. 2 lines 11-15, Doc. No. 324-8) Apparently, Plaintiffs believe they should be
8 able to present uninvited, untimely and irrelevant evidence but Defendants should
9 not be allowed to respond. Defendants request that the Court overrule Plaintiffs
10 unfair request and Defendants further reserve the right to oppose any further efforts
11 by Plaintiffs to drag out litigation that was concluded with the judgment of this
12 Court and the adverse ruling on Plaintiffs' motion for contempt. Plaintiffs have
13 had sufficient opportunity to establish any injunction violations and the only thing
14 they have accomplished is to convince the Ninth Circuit that the injunction should
15 not impact First Amendment protected content.

16 5. Plaintiffs' objection based upon submission of "new evidence" is
17 without merit and not consistent with the contents of the Declaration. Mr. Lahoti
18 views the same documents that Plaintiffs ask this Court to view and points out
19 elements of those documents that Plaintiffs ignore. In this manner, Defendants'
20 continued efforts to comply with the injunction are highlighted, a finding already
21 made in the wake of Plaintiffs' ill-fated motion for contempt.

22 6. It appears that Plaintiffs are objecting to their own motion by
23 objecting to page 2, Line 7-page 3, Line 20 of Mr. Lahoti's declaration, since that
24 portion of the declaration is a quote from Plaintiffs' own motion. (Plaintiffs'
25 Evidentiary Objection at p. 4, lines 9-11, Doc. No. 324-8, as irrelevant, argument,
26 lacks foundation and is improper and inadmissible opinion testimony.) Defendants
27 agree that Plaintiffs continued harassment and attempts to paint Defendants as bad
28

actors is not only irrelevant, argumentative, without foundation and inadmissible opinion testimony, but also simply improper. Mr. Lahoti's inclusion of a quote from Plaintiffs' own motion merely provides foundation for the rest of his Declaration.

7. Plaintiffs objections are without merit and demonstrative of their true motives. Despite their failed contempt motion and Defendants' continued employment of a Splash Screen in compliance with the Court's permanent injunction, Plaintiffs continue their crusade to "shut down" Defendants' business without once acknowledging the grave impairment of Defendants' First Amendment rights. More disturbing, Plaintiffs seek to introduce irrelevant evidence² and then seek to curtail Defendants' basic right to rebut and oppose the evidence.

Defendants respectfully request that the Court overrule Plaintiffs' objections, and to the extent deemed necessary, consider the evidence presented by Defendants.

Dated: November 28, 2011

FOLEY & LARDNER LLP

By: /s/ Kathryn M.S. Catherwood

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EDRIVER, INC., ONLINE GURU
INC., FIND MY SPECIALIST, INC.,
SERIOUSNET, INC., RAVI K.
LAHOTI, RAJ LAHOTI

² And to be clear, it has been Defendants' position all along that post-judgment evidence relating to the Website is entirely irrelevant to Plaintiffs' *attorney's fee application*, but Defendants cannot abide misleading and inaccurate evidence in the record to go unaddressed.

CERTIFICATE OF SERVICE

I hereby certify on this 28th day of November, 2011 that a copy of the foregoing was filed electronically through the Court's CM/ECF system, with notice of case activity automatically generated and sent electronically to all parties.

FOLEY & LARDNER LLP

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